

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED FARMWORKERS OF AMERICA, et
al.,

Plaintiffs,

v.

ADMINISTRATOR, U.S. ENVIRONMENTAL
PROTECTION AGENCY,

Defendant,

GOWAN COMPANY, et al.,

Defendant-Intervenors.

CASE NO. C04-099RSM

ORDER ON PENDING MOTIONS

This matter comes before the Court for consideration of two related motions. Plaintiffs have moved for leave to amend the complaint (Dkt. # 128), and defendant-intervenors have moved for a status conference to discuss scheduling (Dkt. # 137). Both motions are contested. Having considered the motions and response, and the balance of the file, the Court now finds and rules as follows:

(1) Motion for Leave to Amend Complaint

Plaintiffs request leave to amend the complaint in two ways. First, they seek to challenge defendant's decision to allow certain continued uses of AZM and phosmet. As to this amendment, defendants have no opposition. Plaintiffs also request leave to add a challenge to the re-registration of a

1 third pesticide, chlorpyrifos. They assert that this pesticide is chemically similar to the two that are
2 already the subject of this action, and that it would promote judicial economy to have all three chemicals
3 considered in the same proceedings. Defendants oppose this amendment.

4 The Court finds, in view of the late stage of these proceedings, it would unduly prejudice
5 defendants, and would not promote judicial economy, to amend the complaint to add a challenge to a
6 third pesticide. The parties have already reached a settlement with respect to certain claims in the present
7 lawsuit. Defendants assert that their settlement was negotiated in the good faith belief that it would
8 resolve the issues. Permitting amendment would upset the expectations of finality that arose from that
9 settlement agreement. Further, defendants indicate that they may raise issues of laches or timeliness with
10 respect to a chlorpyrifos re-registration challenge, and that would further complicate these proceedings.
11 The Court finds defendants' arguments persuasive.

12 Accordingly, plaintiffs' motion for leave to amend (Dkt. # 128) is GRANTED IN PART and
13 DENIED IN PART. Plaintiffs shall be allowed leave to file an amended complaint with the proposed
14 amendments with respect to AZT and phosmet. Plaintiffs shall not be allowed to amend the complaint to
15 add a challenge to the re-registration of chlorpyrifos. Such challenge may of course be presented in a
16 separate action.

17 (2) Motion for Status Conference

18 Defendant-intervenors have requested a status conference to discuss scheduling issues that would
19 arise from plaintiffs' proposed amendments to the complaint. In light of the disposition of the motion for
20 leave to amend, the Court deems such conference unnecessary at this time. Defendant-intervenors'
21 motion for a status conference (Dkt. # 137) is accordingly DENIED.

22 DATED this 9 Day of April 2007.

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24 RICARDO S. MARTINEZ
25 UNITED STATES DISTRICT JUDGE
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